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OFFICE OF PETITIONS

In re Application of	:	
Sutton-Rainey et al.	:	DECISION ON PETITION TO
Application No. 10/680,737	:	WITHDRAW HOLDING OF
Filed: 7 October, 2003	:	ABANDONMENT
Atty Docket No. RAIN-1-1005	:	

This is a decision on the petition filed on 14 October, 2005, to withdraw the holding of abandonment in the above-identified application.

The petition is GRANTED.

The application was held abandoned for failure to timely respond to the non-final Office action requiring restriction or election mailed on 17 February, 2005. Notice of Abandonment was mailed on 30 September, 2005.

Petitioners assert that a response to the non-final Office action was timely filed on 14 July, 2005, but was inadvertently miscaptioned for Application No. 10/687,737 (*sic*). In support, petitioners have supplied a copy of an itemized postcard bearing an "Office date" stamp of 18 July, 2005, itemizing the filing of the response to the Office action. Additionally, petitioners have supplied a duplicate copy of the amendment, bearing a Certificate of Transmission dated 14 July, 2005, signed by Wendy Saxby.

The original copy of the reply filed on 18 July, 2005, has been located in the file of Application No. 10/687,737.

Under current Office procedure, a response that has an incorrect serial number is handled in accordance with M.P.E.P. § 508.03. If a paper having an incorrect serial number contains sufficient information to identify the correct application and was timely received at the Office, the holding of abandonment will be withdrawn. In reviewing the papers which were submitted, it is concluded that there was sufficient information thereon to associate the papers with the present application file.

As petitioners have provided convincing evidence that a reply to the non-final Office action was filed on 14 July, 2005, the showing of record is that a response was timely filed, and there is no abandonment in fact. Any inconvenience caused to applicant is regretted.

As a two (2) month extension of time is required to make the reply filed on 14 July, 2005 (certificate of mailing date) a timely response to the Office action mailed on 17 February, 2005, a two (2) month extension of time will be charged to counsel's deposit account as authorized in the fee transmittal filed with a certificate of mailing date of 14 July, 2005.

The holding of abandonment is withdrawn, and the Notice of Abandonment is vacated.

The application is being referred to the Technology Center for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.



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Office of Petitions